

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

FEIN, SUCH, KAHN & SHEPARD, P.C.

Counsellors at Law

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Attorneys for Secured Creditor
Select Portfolio Servicing, Inc., as
servicer for MEB LOAN TRUST IV

R.A. LEBRON, ESQ.

SPS1891

bankruptcy@fskslaw.com

In Re:

ATEF G YOUSSEF and TEREZA F YOUSSEF

Debtor(s).

Case No.: 16-33412 MBK

Adv. No.:

Chapter: 13

Hearing Date: 02/08/2023

Judge: Honorable Michael B.
Kaplan, Chief Judge

**OBJECTION OF SELECT PORTFOLIO
SERVICING, INC., AS SERVICER FOR
MEB LOAN TRUST IV TO CONFIRMATION
OF DEBTOR'S MODIFIED PLAN**

I, R.A. LEBRON, ESQ., do hereby certify as follows:

1. I am an attorney at law of the State of New Jersey associated with the law firm of FEIN, SUCH, KAHN & SHEPARD, P.C., attorneys for Select Portfolio Servicing, Inc., as servicer for MEB LOAN TRUST IV, ("Secured Creditor" herein), and I am fully familiar with the facts and circumstances of the within matter.

2. The present bankruptcy case was filed on December 8, 2016.

3. On February 5, 2021, Secured Creditor filed a Motion for Relief from Stay re: 7 Redcoat Dr., East Brunswick NJ 08816. See ECF

No. 87.

4. After a Certification in Opposition to Motion for Relief from Stay was filed, the motion was resolved with an Order Resolving Motion For Relief From Stay re: 7 Redcoat Dr., East Brunswick NJ 08816 (the "MFR Order") entered on April 11, 2021. See ECF Nos. 88, 97. The MFR Order reflected an intent to cure arrears and maintain payments.

5. On February 24, 2021, a Modified Chapter 13 Plan and Motions (the "First Modified Plan") was filed. See ECF No. 89. The First Modified Plan proposed the following:

- (a) Part 4.a. proposed to cure the default to Secured Creditor and maintain payments moving forward. The amount to be paid to Secured Creditor is \$581.46 with regular monthly payments (outside plan) to be maintained. A payment amount was not listed.
- (b) Part 4.g. proposed to pay in full the Secured Claim through the Plan. The amount to be paid was \$19,000.00.
- (c) Part 9 stated the reason the Plan was being modified as: *COVID HARDSHIP, PAY MEB LOAN TRUST IV THROUGH THE PLAN, ARREARS TO SPECIALIZED LOAN TRUST.* Further, it states how the Plan was being modified as: *EXTEND PLAN FOR 7 YEARS, MEB LOAN TRUST IV THROUGH THE PLAN AND ARREARS TO SPECIALIZED LOAN TRUST.*

6. On March 4, 2021, an Objection to Confirmation of the

First Modified Plan was filed. See ECF No. 94.

7. An Order Resolving Objection to Confirmation of First Modified Plan (the "Plan Objection Order") was entered on May 12, 2021. See ECF No. 100. The claim was to be treated as a total debt subject to the terms listed in the Plan Objection Order.

8. An Order Confirming Modified Chapter 13 Plan (the "Confirmation Order") was entered on May 28, 2021. See ECF No. 104. The Confirmation Order did not appear to reflect terms consistent with the Plan Objection Order. Further, a review of the Claim Summary under the National Data Center website (the "Trustee's Ledger") does not show treatment of the total debt inside the Plan. A copy of the Claim Summary under the Trustee's Ledger is attached hereto and marked as Exhibit A.

9. On December 28, 2022, a new Modified Chapter 13 Plan and Motions (herein, the "Second Modified Plan") was filed. See ECF No. 123. The Second Modified Plan proposes the following:

(a) Part 4.a. proposes to cure the default to Secured Creditor and maintain payments moving forward. The amount to be paid to Secured Creditor is \$581.46 with regular monthly payments (outside plan) to be maintained. A payment amount is not listed.

10. Secured Creditor objects to confirmation of Debtors' Second Modified Plan (the "Plan") for the reasons which follow:

(a) Secured Creditor holds a mortgage on Debtor(s)' principal residence located at 7 REDCOAT DR EAST

BRUNSWICK, NJ 08816. As of the date of the bankruptcy filing, Debtor(s)' were in default on the terms of the Note and Mortgage. Total arrears due to Secured Creditor through the plan is \$581.46. The total claim is \$26,479.13. Secured Creditor has filed a proof of claim with the Court.

- (b) The loan matured on November 1, 2022. This date is within the life of the Plan. Due to prior conflicting orders, Secured Creditor requests clarification of the proposed treatment. Upon information and belief, the total remaining debt, as of December 30, 2022, is \$9,029.90. If the total debt is not to be paid inside the Plan with interest over the remaining life of the Plan, then Secured Creditor requests the prior Plan Objection Order be modified or vacated, if appropriate.
- (c) Furthermore, Secured Creditor objects to confirmation in that if there is a post-petition delinquency at the time of confirmation and the case is dismissed, then any excess funds that the Chapter 13 Trustee is holding be released to Secured Creditor. Absent the release of any excess funds, Secured Creditor is substantially harmed as Debtor(s) would have enjoyed the benefit of the automatic stay to the detriment of Secured Creditor. Absent such language in the Order

Confirming Plan, confirmation of must be denied.

11. For the reasons stated above, and for any others that the Court deems fit to adopt, Secured Creditor respectfully objects to the Second Modified Plan and confirmation thereof.

12. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

FEIN, SUCH, KAHN & SHEPARD, P.C.
Attorneys for Secured Creditor

/s/ R.A. Lebron, Esq.
R.A. LEBRON, ESQ.

DATED: January 4, 2023

cc: ROBERT C. NISENSON, ESQ. - DEBTOR(S)' ATTORNEY
ALBERT RUSSO - TRUSTEE

UNITED STATES BANKRUPTCY COURT
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In Re:

ATEF G YOUSSEF and TEREZA F
YOUSSEF

Debtor(s).

Case No.: 16-33412 MBK

Adv. No.:

Chapter: 13

Hearing Date: 02/08/2023

Judge: Honorable Michael B.
Kaplan, Chief Judge

CERTIFICATION OF SERVICE

1. I, Ruth Essington:

represent the _____ in this matter.

am the secretary/paralegal for FEIN, SUCH, KAHN & SHEPARD, P.C.,
who represents the Secured Creditor, Select Portfolio Servicing,
Inc., as servicer for MEB LOAN TRUST IV in this matter.

am the _____ in the above case and am representing
myself.

2. On January 04, 2023, this office caused to be mailed a copy of the
following pleadings and/or documents to the parties listed in the
chart below:

a. Objection to Confirmation of Modified Plan.

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Robert C. Nisenson Robert C. Nisenson, LLC 10 Auer Court Suite E East Brunswick, NJ 08816	Debtor(s)' Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee in Bankruptcy	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
Atef G Youssef Tereza F Youssef 7 Redcoat Drive East Brunswick, NJ 08816	Debtor(s)	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: 01/04/23

/s/Ruth Essington

Paralegal

A

**Claim Summary**

Case 1633412 Debtor1 ATEF G YOUSSEF Debtor2 TEREZA F YOUSSEF Trustee RUSSO, ALBERT (ROBBINSVILLE, NJ)

CLAIM NUMBER	CREDITOR NAME	CLAIM DESCRIPTION	CLAIM AMOUNT	SCHEDULED AMOUNT	INTEREST PAID	PRINCIPAL PAID ▼	PRINCIPAL OWED	MONTHLY PAYMENT
30	MEB LOAN TRUST	MORTGAGE ARREARAGE S - SECURED	\$23,177.42	\$0.00	\$0.00	\$12,342.66	\$10,834.76	\$0.00
31	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$18,472.44	\$0.00	\$0.00	\$9,837.11	\$8,635.33	\$0.00
27	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$12,255.20	\$0.00	\$0.00	\$8,696.08	\$3,559.12	\$0.00
25	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$8,719.00	\$0.00	\$0.00	\$6,993.29	\$1,725.71	\$0.00
6	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$4,698.05	\$358,483.00	\$0.00	\$4,698.05	\$0.00	\$0.00
0	ROBERT C. NISENSON, ESQ.	ATTORNEY FEE	\$2,500.00	\$2,500.00	\$0.00	\$2,500.00	\$0.00	\$0.00
5	MEB LOAN TRUST	MORTGAGE ARREARAGE S - SECURED	\$581.46	\$27,036.00	\$0.00	\$581.46	\$0.00	\$0.00
11	WELLS FARGO BANK, NA	ALL OTHER SECURED DEBT - SECURED	\$535.50	\$3,763.00	\$0.00	\$535.50	\$0.00	\$0.00
24	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$531.00	\$0.00	\$0.00	\$531.00	\$0.00	\$0.00
26	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$531.00	\$0.00	\$0.00	\$531.00	\$0.00	\$0.00
20	PORTFOLIO RECOVERY ASSOCIATES	UNSECURED CREDITORS	\$52,803.89	\$0.00	\$0.00	\$530.08	\$52,273.81	\$0.00
29	MEB LOAN TRUST	MORTGAGE ARREARAGE S - SECURED	\$379.54	\$0.00	\$0.00	\$379.54	\$0.00	\$0.00
28	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$350.00	\$0.00	\$0.00	\$350.00	\$0.00	\$0.00
3	CAPITAL ONE BANK (USA), N.A.	UNSECURED CREDITORS	\$32,478.92	\$32,478.00	\$0.00	\$326.04	\$32,152.88	\$0.00
10	AMERICAN EXPRESS	UNSECURED CREDITORS	\$27,328.69	\$37,328.00	\$0.00	\$274.35	\$27,054.34	\$0.00
9	AMERICAN EXPRESS	UNSECURED CREDITORS	\$24,336.31	\$24,336.00	\$0.00	\$244.31	\$24,092.00	\$0.00
13	LVNV FUNDING LLC	UNSECURED CREDITORS	\$23,805.97	\$23,805.00	\$0.00	\$238.99	\$23,566.98	\$0.00
32	US BANK TRUST NATIONAL ASSOCIATION	MORTGAGE ARREARAGE S - SECURED	\$200.00	\$0.00	\$0.00	\$200.00	\$0.00	\$0.00
12	LVNV FUNDING LLC	UNSECURED CREDITORS	\$18,619.42	\$18,619.00	\$0.00	\$186.92	\$18,432.50	\$0.00
23	PORTFOLIO RECOVERY ASSOCIATES	UNSECURED CREDITORS	\$12,373.39	\$0.00	\$0.00	\$124.22	\$12,249.17	\$0.00
14	HOME DEPOT LOAN SERVICES	UNSECURED CREDITORS	\$32,005.41	\$31,589.00	\$0.00	\$111.61	\$31,893.80	\$0.00
15	HOME DEPOT LOAN SERVICES	UNSECURED CREDITORS	\$24,551.96	\$0.00	\$0.00	\$85.62	\$24,466.34	\$0.00
17	MIDLAND CREDIT AS AGENT FOR	UNSECURED CREDITORS	\$6,146.04	\$6,146.00	\$0.00	\$47.87	\$6,098.17	\$0.00
8	BANK OF AMERICA, N.A.	UNSECURED CREDITORS	\$5,639.65	\$5,639.00	\$0.00	\$43.93	\$5,595.72	\$0.00
16	AMERICAN EXPRESS CENTURION BANK	UNSECURED CREDITORS	\$5,635.32	\$5,635.00	\$0.00	\$43.89	\$5,591.43	\$0.00
1	BMW FINANCIAL SERVICES NA LLC	UNSECURED CREDITORS	\$3,408.00	\$0.00	\$0.00	\$34.22	\$3,373.78	\$0.00
7	AMERICAN EXPRESS	UNSECURED CREDITORS	\$2,424.92	\$2,424.00	\$0.00	\$18.89	\$2,406.03	\$0.00
21	PORTFOLIO RECOVERY ASSOCIATES	UNSECURED CREDITORS	\$1,726.15	\$0.00	\$0.00	\$17.34	\$1,708.81	\$0.00

CLAIM NUMBER	CREDITOR NAME	CLAIM DESCRIPTION	CLAIM AMOUNT	SCHEDULED AMOUNT	INTEREST PAID	PRINCIPAL PAID ▼	PRINCIPAL OWED	MONTHLY PAYMENT
22	PORTFOLIO RECOVERY ASSOCIATES	UNSECURED CREDITORS	\$2,167.62	\$0.00	\$0.00	\$16.89	\$2,150.73	\$0.00
19	MIDLAND CREDIT AS AGENT FOR	UNSECURED CREDITORS	\$2,669.55	\$2,669.00	\$0.00	\$15.06	\$2,654.49	\$0.00
0		DEBTOR REFUND	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
18	MIDLAND CREDIT AS AGENT FOR	UNSECURED CREDITORS	\$764.62	\$714.00	\$0.00	\$0.00	\$764.62	\$0.00
2	BMW FINANCIAL SERVICES NA LLC	UNSECURED CREDITORS	\$1,201.65	\$0.00	\$0.00	\$0.00	\$1,201.65	\$0.00
4	AMERICAN INFOSOURCE LP AS AGENT FOR	UNSECURED CREDITORS	\$1,026.89	\$0.00	\$0.00	\$0.00	\$1,026.89	\$0.00